



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004**

COPY MAILED

MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Heiko DASSOW et al. :
Application No. 09/673,520 :
Filed: October 17, 2000 :
Attorney Docket No. 2345/137 :

DECISION ON PETITION

This is a decision on the petition, filed October 03, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application, concurrently filed with a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.181(a) is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of March 20, 2006, which set a three (3) month shortened statutory period for reply. A three (3) month extension of time was obtained. Accordingly, a reply was due on or before September 20, 2006.

Petitioner states that a timely reply was mailed via certificate of mailing on September 20, 2006, which included the following papers: payment of a three month extension of time, extension fees, a copy of applicants timely filed response and a stamped postcard indicating receipt of applicants response by the USPTO. Petitioner has submitted a copy of the previously mailed postcard, which bears a certificate of mailing dated September 20, 2006, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of March 20, 2006 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on September 20, 2006.

The petition fee of \$1540 will be credited to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2616 for appropriate action in the normal course of business on the reply received with petition.



David Bucci
Petitions Examiner
Office of Petitions